



PUBLIC HEALTH

**ALWAYS WORKING FOR A SAFER AND
HEALTHIER WASHINGTON**

Rules Development Process
December 7, 2005

What is a Rule? RCW 34.05.010(16)

- Agencies use rules to implement laws and policies. A rule is an order, directive, or regulation that agencies use to:
 - subject a person to a penalty or sanction if that person violates a regulation;
 - set qualifications for conveying privileges to people or entities;
 - set procedures or practices for agency hearings;
 - license or permit individuals or entities and revoke licenses or permits; and
 - set product or material standards for goods before they can be sold or distributed in Washington.

What Triggers Rulemaking?

- Legislative mandate/change in law
- Court order
- Administrative rule review-- Executive Order 97-02
- Petition
- Federal change of rules or law
- Changes in the environment or technology
- Request by interested parties

Guiding Principles for Rule Development

- The Administrative Procedures Act (APA)
Chapter 34.05 RCW
- The Regulatory Fairness Act, Chapter 19.85
RCW
- Executive Order 97.02
- The Department of Health Rules Manual
- Chapter 1-21 WAC Rulemaking

Rule Development– in a Nutshell

- Inquiry (CR101) – the agency examines whether rules are necessary and the best solution to a problem.
- Proposal (CR-102) – the agency determines rules are the best solution and begins drafting text and analyses, and collecting comment on proposed rule.
- Adoption (CR-103) – the agency reviews and responds to all comments and finalizes the rule.

At Each Stage

- Rule packages are reviewed:
 - DOH program and division staff, Assistant Attorneys General, SBOH staff, Office of the Secretary staff
- Rule packages are approved:
 - Assistant Secretary, Secretary, Executive Director, Board Sponsor
- Rule packages are filed with and published – Office of the Code Reviser
- Interested parties are notified

Inquiry – the Process

- Problem Identification-- a rule is needed
- DOH or SBOH staff draft a CR-101 package (concept, scope, controversy, delegation?)
- Board considers recommendations-- approval required to proceed
- Review and approval
- CR101 Filing and publication with the State Code Reviser
- Interested party notification

Proposal – the Process

- Stakeholder work
 - problem identification and dialog with interested parties and/or advisory committees
- Drafting
 - Analysis
 - Draft internal rule review and comment/editing
- Review and approval
- Filing and publication with the State Code Reviser

Proposal – the Process (cont.)

- Interested party notification
- Public hearing
- Decision to adopt – based on public comment, the board may:
 - move the rule to adoption;
 - schedule the rule for another hearing;
 - revamp and re-propose the rule; or
 - withdraw the rule.

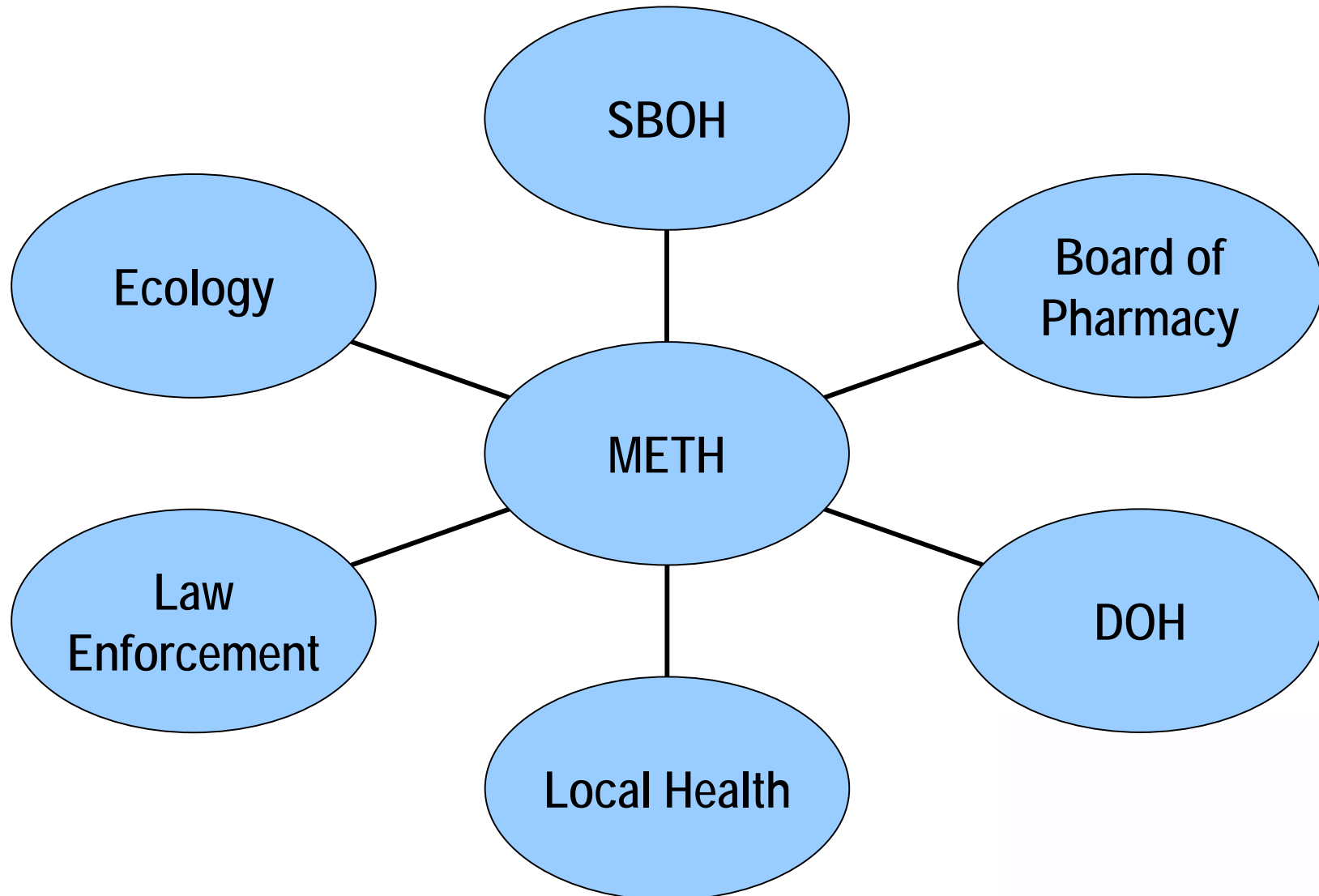
Adoption – the Process

- Comment summary and response
- Change rule based on Board direction
- Finalize the adoption package
- Review and approval
- Filing and publication with the State Code Reviser
- Interested party notification
- Rules are effective 31 days after the order of adoption is filed, unless another date is set

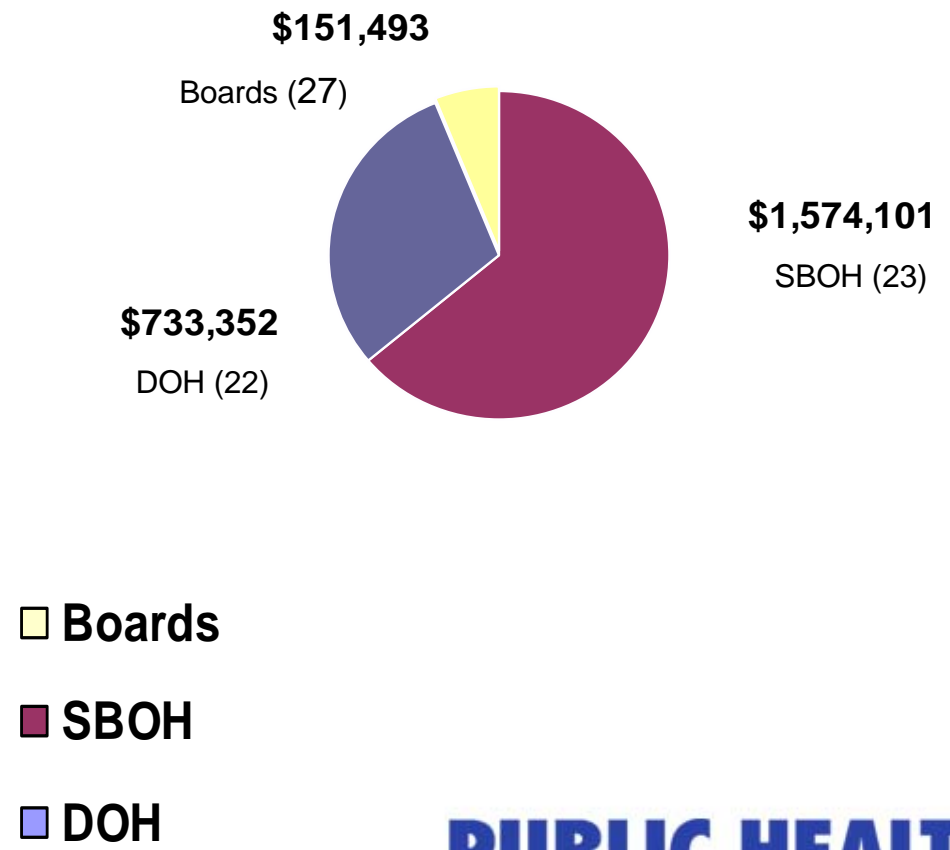
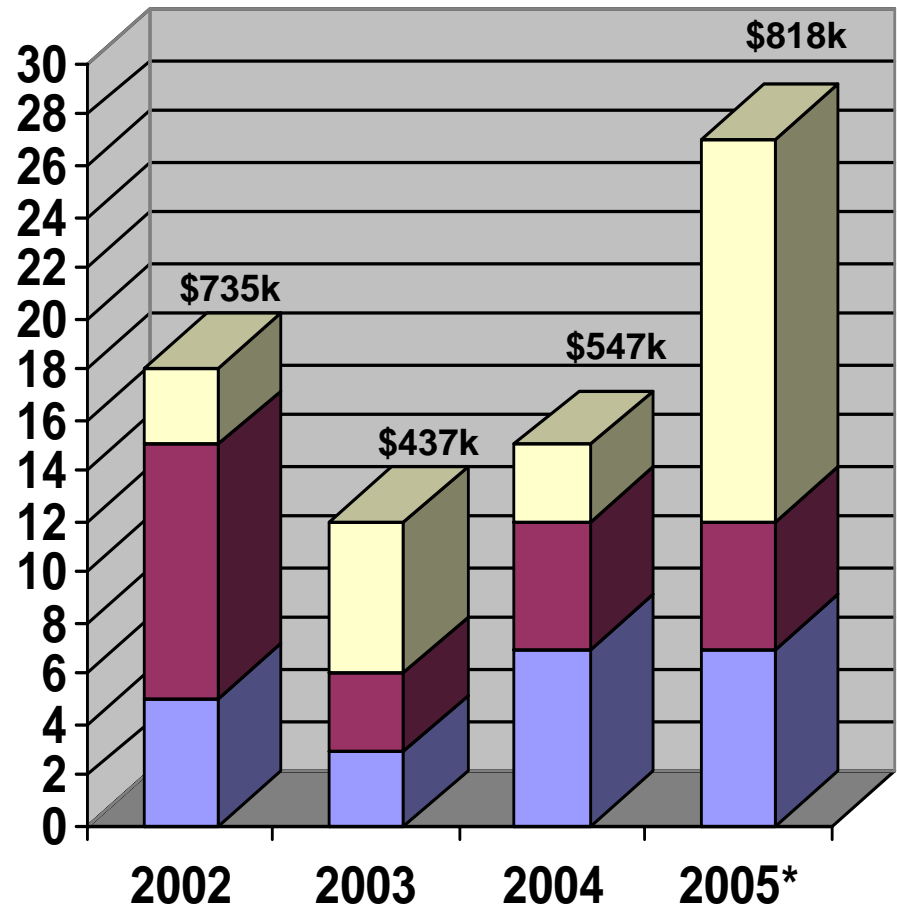
Why does it take so long?

- Procedural timelines are set in law and rule.
- Public involvement is required and valued.
- Data and information to support rules are not always readily available.
- Programs do not dedicate staff exclusively for rule development.
- Some rules overlap and overlay with other agencies authorities.

One Issue-- Many Partners



Volume and Cost of Rules 2002-2005



Abbreviated Rules Processes

- “Exception”
 - Rules are exempt from the CR-101 and analysis requirements.
- Expedited
 - Rules are exempt from the CR-101, analysis and hearing requirements.
- Emergency
 - Rules are exempt from CR-101, 102, and analytical requirements.

Questions?

PUBLIC HEALTH

ALWAYS WORKING FOR A SAFER AND

HEALTHIER WASHINGTON